

Remarks

Claims 1-8 and 11 are currently pending.

Claims 1-13 have been rejected.

35 U.S.C. § 112

The Examiner rejected claim 4 as being indefinite. Applicants have amended claim 4 to depend on claim 2 and request the rejection be withdrawn.

The Examiner also rejected claims 9 and 12 as being indefinite. Applicants have cancelled claims 9 and 12, and all claims depending on claim 9 and 12 rendering this rejection moot.

35 U.S.C. § 103(a)

The Examiner rejected claims 1-7 and 9-13 under 35 U.S.C. § 103(a) as being unpatentable over Tzikas et al. (US 6,160,101) in view of Eichorn et al. (US 6,281,340). The Examiner also rejected claim 8 as being unpatentable over Tzikas et al. in view of Eichorn et al. and further in view of Tzikas et al. (WO 00/06652) Applicants traverse these rejections for the following reasons.

While it is true Tzikas et al. disclose compounds embraced by formula (1) and Eichorn et al. disclose compounds embraced by formula (2), neither publication discloses or suggests the combination of such compounds in a dye mixture as presently claimed. The Examiner urges that since both dyes are known, it would be obvious to prepare a mixture of the dyes. However, this presumption inherently implies that every known dye can be mixed with any another known dye and that the mixture so obtained exhibits properties of the individual dyes. Applicants respectfully submit that this presumption is incorrect.

One of ordinary skill in the art knows that not every mixture of arbitrarily selected dyes of different colors can be successfully applied in textile or dyeing processes. For instance, one cannot predict whether the individual dyes, upon combination, will have similar build-up properties which are essential in ensuring the dyestuffs are compatible so that a solid, even appearance is achieved on the materials during application of the dye mixture. Moreover, the compatibility of dyes in a mixture cannot be predicted or derived from the chemical structure or physical properties of the individual dyes alone. Thus, because one skilled in the art, at the time of applicants' invention, would not be choosing from a finite number of identified predictable solutions with a reasonable expectation of success, neither publication, alone or in combination, renders applicants' claimed invention obvious.

The Examiner has added Tzikas et al. '652 for the purpose of teaching the addition of dye of formula (8) to the dye mixture of defendant claim 8. For the reasons set forth above, claim 1 is not obvious. Therefore, all claims depending on claim 1 are also not obvious. Accordingly, applicants respectfully request the rejections under § 103(a) be withdrawn.

Conclusion

Should any fee be due in connection with the filing of this document, the Commissioner for Patents is hereby authorized to deduct said fee from Huntsman Corporation Deposit Account No. 08-3442.

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